

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 17

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JANET C. CROWELL

Appeal No. 98-0198
Application No. 08/544,299¹

ON BRIEF

Before CALVERT, ABRAMS and NASE, *Administrative Patent Judges*.

ABRAMS, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal from the decision of the examiner finally rejecting claims 1 through 19, which constitute all of the claims of record in the application.

¹ Application for patent filed October 17, 1995.

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The appellant's invention is directed to a bed sheet.
The subject matter before us on appeal is illustrated by
reference to claim 1, which reads as follows:

1. A connected bed sheet assembly comprising

A bottom sheet having a first end and a second end with
said first end and said second end in opposed generally
parallel relation, and having a first edge and a second edge
with said first edge and said second edge in opposed generally
parallel relation; and

A top sheet having a first end and a second end with said
first end and said second end in opposed generally parallel
relation, and having a first edge and a second edge with said
first edge and said second edge in opposed generally parallel
relation, with said first end of said top sheet connected to
said first edge of said bottom sheet with said first edge of
said top sheet connected to said first edge of said bottom
sheet along a substantial majority of the length of said first
edges, with said second end of said top sheet free from
connection to said second end of said bottom sheet, and with
said second edge of said top sheet free from connection to
said second edge of said bottom sheet through a substantial
majority of the length of said second edges.

THE REFERENCES

The references relied upon by the examiner to support the
final rejection are:

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| Crockett | 3,962,739 | Jun. 15, |
| 1976 | | |
| Mendyk | 4,241,466 | Dec. 30, |
| 1980 | | |

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| Kawtoski 1993 | 5,177,821 | Jan. 12, |
| French patent (Reverger) ² 1988 | 2,608,031 | Jun. 17, |

THE REJECTIONS

The following rejections stand under 35 U.S.C. § 103:

- (1) Claims 1-3, 5, 6, 9-11 and 13 on the basis of the French reference and Mendyk.
- (2) Claims 4, 12, 14 and 17 on the basis of the French reference, Mendyk and Crockett.
- (3) Claims 7 and 8 on the basis of the French reference, Mendyk and Kawtoski.
- (4) Claims 15, 16, 18 and 19 on the basis of the French reference, Mendyk, Crockett and Kawtoski

The rejections are explained in the Examiner's Answer.

The opposing viewpoints of the appellant are set forth in the Brief.

OPINION

² Translation attached.

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In reaching our decision on the issues raised in this appeal, we have carefully assessed the claims, the prior art applied against the claims, and the respective views of the examiner and the appellant as set forth in the Answer and the Brief. As a result of our review, we have determined that none of the rejections should be sustained. Our reasoning in support of this conclusion follows.

The test for obviousness is what the combined teachings of the prior art would have suggested to one of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 425, 208 USPQ 871, 881 (CCPA 1981). In establishing a *prima facie* case of obviousness under 35 U.S.C. § 103, it is incumbent upon the examiner to provide a reason why one of ordinary skill in the art would have been led to modify a prior art reference or to combine reference teachings to arrive at the claimed invention. See *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Int. 1985). To this end, the requisite motivation must stem from some teaching, suggestion or inference in the prior art as a whole or from the knowledge generally available to one of ordinary skill in the art and not from the appellant's

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disclosure. See, for example, *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 1052, 5 USPQ2d 1434, 1052 (Fed. Cir.), *cert. denied*, 488 U.S. 825 (1988). The objective of the appellant's invention is to provide a bottom and top sheet combination that is very easy to install upon a mattress, even if the bed is against a wall. The essence of the invention, in the language of claim 1, is that the bottom and top sheets are attached together along their bottom edges and along "a substantial majority" of the length of one of their side edges, while being "free from connection" along "a substantial majority" of the length of the other of their side edges. The French reference also teaches attaching together bottom and top sheets. However, while the sheets are attached together at their bottom ends, as is the appellant's arrangement, both of their side edges are attached along "the lower half" (translation, page 3), which differs from the appellant's invention. Mendyk is directed to a safety sheet system in which the bottom and top sheets are not attached together at either the top or the bottom ends, but are attached together along the full length of both of their side edges. It is the

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examiner's position that one of ordinary skill in the art would have found it obvious to modify the sheets disclosed in the French reference to conform to the claim requirements noted above, in view of the teachings of Mendyk.

From our perspective, however, even if motivation exists for combining the teachings of the French reference with those of Mendyk, the most that would have been suggested to one of ordinary skill in the art is attaching the sheets of the French reference together along the entirety of both side edges. Thus, the teachings of these two references fail to establish a *prima facie* case of obviousness with respect to the basic subject matter that is present in all of the claims before us. The addition of Crockett and/or Kawtoski to this combination does not alleviate this shortcoming.

None of the rejections are sustained.

The decision of the examiner is reversed.

REVERSED

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| | IAN A. CALVERT |) | |
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| | JEFFREY V. NASE |) | |
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